

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2014-346-WS**

IN RE:	)	<b>MOTION FOR CLARIFICATION</b>
Application of Daufuskie Island Utility	)	<b>AND TO HOLD REMAINING</b>
Company, Incorporated for Approval of an	)	<b>PROCEDURAL DUE DATES IN</b>
Increase for Water and Sewer Rates, Terms and	)	<b>ABEYANCE PENDING</b>
Conditions	)	<b>COMMISSION ORDER</b>

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The South Carolina Office of Regulatory Staff (“ORS”) respectfully submits this Motion for Clarification regarding the additional review that the Public Service Commission of South Carolina (“Commission”) seeks on Daufuskie Island Utility Company Inc. (“DIUC”). Additionally, pending the issuance of the Commission’s Order on Clarification, ORS respectfully requests that the Commission hold the remaining procedural due dates in abeyance.

**Introduction**

On January 21, 2020, the Commission held Oral Arguments regarding the procedural path to properly address the remand from the South Carolina Supreme Court of the Application of DIUC for approval of an adjustment of water and sewer rates. During the Oral Arguments, and in previous filings, counsel for ORS and DIUC stated that they were amenable to the Commission relying upon the existing and established record and issuing an order therefrom.<sup>1</sup> Counsel for Melrose Property Owners Association, Incorporated, Haig Point Club and Community Association, Incorporated, and Bloody Point Property Owner’s Association (collectively referred

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<sup>1</sup> Oral Argument Tr. p. 9, l. 23-25, p. 10, l. 1; Letter filed by ORS on December 6, 2019, which stated, “ORS is prepared to rest on the evidence it submitted in the initial two hearings.”

to as the “POA”) asserted that an additional hearing was required.<sup>2</sup> While ORS filed a letter stating it was prepared to rest on the evidence previously submitted, counsel also stated “if the Commission believes that additional evidence and [discussions with DIUC on rate case expenses] would be helpful, then ORS would be happy to participate in a proceeding of that nature.”<sup>3</sup> The Commission subsequently issued Order No. 2020-382, which required a limited hearing to be held to consider rate case expenses, plant in service, and reparations. Subsequently, the Commission issued Order No. 2020-48H, which set a procedural schedule for the third proceeding.

### **Background**

On June 16, 2020, John Guastella, a witness for DIUC, filed direct testimony in which he discussed the previous two Supreme Court opinions, the rates DIUC now seeks, and reparations. Notably absent from Mr. Guastella’s testimony was any indication of whether the previously contested \$542,978 in rate case invoices had been paid.<sup>4</sup> On July 7, 2020, Dawn Hipp, a witness for ORS filed direct testimony in which she re-affirmed ORS’s recommendation to exclude \$699,361 from the calculation of utility plant in service and \$542,978 in rate case expenses from recovery through customer rates for DIUC. ORS also filed testimony of Mark Rhoden, a Certified Public Accountant, in which he presented his findings from an internal and objective review of ORS’s audit practices as it relates to its review of DIUC’s rate case expenses. Mr. Rhoden concluded that the ORS evaluation was appropriate.<sup>5</sup> No direct testimony was filed on behalf of the POAs.

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<sup>2</sup> See Oral Argument Tr. p. 16, ll. 8-22.

<sup>3</sup> Oral Argument Tr. p. 18, ll. 19-23.

<sup>4</sup> The Commission previously disallowed recovery of certain rate case expenses on the basis that they did not appear to have yet been paid. See Commission Order 2018-68, pp. 37-39; Order No. 2018-346, p. 10.

<sup>5</sup> Second Rehearing Direct Testimony of Mark Rhoden, p. 5, l. 2

### **Support for Motion and Conclusion**

South Carolina Code § 58-4-50 directs ORS to inspect, audit, and examine public utilities and make appropriate recommendations to the Commission regarding matters within the jurisdiction of the Commission when in the public interest.<sup>6</sup> Moreover, ORS “must represent the public interest of South Carolina before the commission...’public interest’ means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer, and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.”<sup>7</sup> In accordance with ORS’s statutory obligations, it has reviewed the testimony filed by DIUC and issued a request for information, to which DIUC responded on July 10, 2020. DIUC filed its response on the Commission’s Docket Management System and ORS has attached the same to this Motion as Exhibit 1. In DIUC’s response, it now asserts for the first time that certain invoices have been paid. DIUC also asserts that ORS’s request is in contradiction to the Court’s Opinion despite the fact that the Court explicitly stated “[i]n this reversal and remand, [the Court does] not address the merits at all.... Rather, we simply require the commission and ORS evaluate the evidence and carry out their

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<sup>6</sup> See S.C. Code Ann. § 58-4-50(A)(1)-(2), which state “(A) It is the duty and responsibility of the regulatory staff to:

(1) when considered necessary by the Executive Director of the Office of Regulatory Staff and in the public interest, review, investigate, and make appropriate recommendations to the commission with respect to the rates charged or proposed to be charged by any public utility;

(2) when considered necessary by the Executive Director of the Office of Regulatory Staff and in the public interest, make inspections, audits, and examinations of public utilities regarding matters within the jurisdiction of the commission. The regulatory staff has sole responsibility for this duty but shall also make such inspections, audits, or examinations of public utilities as requested by the commission....”

<sup>7</sup> S.C. Code Ann. § 58-4-10(B).

important responsibilities consistently, within the ‘objective and measurable framework’ the law provides.”<sup>8</sup>

Therefore, ORS respectfully moves for clarification from the Commission as to whether the Commission seeks to have ORS continue its investigatory review or cease to conduct any further review of DIUC and thereby allow the Commission to rely upon the record as it currently stands.

Due to the compressed timeline in this case, it may impose a burden upon the participating parties, particularly DIUC, to draft and file testimony without having the certainty a Commission Order would afford. As a result, ORS respectfully requests expedited consideration of this Motion for Clarification and that the remaining procedural due dates be held in abeyance pending the Commission’s issuance of a clarifying order.

Respectfully submitted,

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OF REGULATORY STAFF

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July 14, 2020  
Columbia, South Carolina

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<sup>8</sup> Daufuskie Island Utility Company, Inc. v. S. C. Office of Regulatory Staff, 427 S.C. 458, 464, 832 S.E.2d 572, 575 (2019) (citation omitted).